

Appl. No.: 10/817,303  
Amdt. dated 08/31/2007  
Reply to Office Action of 06/29/2007

### REMARKS/ARGUMENTS

In the Office Action dated June 29, 2007, Claims 1-19 are pending, of which Claims 1-14 have been elected for prosecution in this application. The remaining Claims 15-19 are canceled above. Claim 9 is objected to for an informality. Claims 1-14 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Claims 1-6 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 3,671,272 to Mixon. Claims 1-3, 5, and 10-12 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Design Patent No. 279253 to Daenen, et al. Claims 1, 4, 7-9, and 12 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 2,904,205 to Callery. Claims 1-3, 5-8, and 11-14 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,514,392 to Garwood. Claims 1, 2, 4-6, 10, 11, and 14 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,112,124 to Jarvis.

Claim 9 is amended above to address the informality noted in the Office Action. In particular, a period is added at the end of the claim.

Further, regarding the rejections under § 112, various claims are amended or canceled above. In particular, the claims are amended to remove or correct the terms “substantially transparent” (Claim 1), “trough-like” (Claim 3), and “generally rectangular” (Claim 5), “said seal” (Claims 6 and 7), “the atmosphere” (Claim 14), and “manipulated to optimize storage conditions” (Claim 14). Applicant submits that these amendments resolve all of the concerns raised under § 112 and requests withdrawal of the rejections under § 112 accordingly. The Examiner’s careful attention to the language of the claims is noted with appreciation.

Turning now to the rejections made under § 102(b), Applicant respectfully requests reconsideration in light of the above amendments and the following remarks.

Claim 1, as amended above, is directed to a container for packaging perishable food items, such as fresh red meat. The container includes a tubular body portion that is formed of molded thermoplastic polymer having an arcuate top, two ends, and a flat bottom having an undulating profile at each side forming a trough. The tubular body portion has a cross-section suitable for holding a perishable food item, wherein at least a portion of said tubular body is

transparent. One end of the body portion is closed, and the other end has an open mouth that is adapted to be sealed.

For example, in one embodiment of the invention illustrated in Figure 1 of the application, the container **10** has a tubular body portion **12** and a flat bottom **14**. The tubular body portion **12** is closed at one end **16**. The other end of the tubular body portion **12** has an open mouth **18** for inserting the food product. As shown in FIG. 2, the flat bottom **14** has an undulating profile at each side of the flat bottom **14** to form trough-like areas **13** to accumulate the juices from the packaged meat. *See* paragraph [030]. As described in the application, the container **10** presents the packaged product in a visually enhanced manner relative to a conventional tray display, e.g., because the product can be viewed from the top and sides as opposed to only the top as with tray displays. *See* paragraph [039].

Claim 1 stands rejected as being anticipated by each of Mixon, Daenen, et al., Callery, Garwood, and Jarvis. As discussed below, none of the references teaches or suggests the features of Claim 1 as amended.

Even if the containers of Mixon, Daenen, et al., Callery, and Garwood are considered to have flat bottoms, none of these references discloses an arcuate top as now recited in Claim 1. In particular, Mixon and Daenen, et al. disclose containers with flat tops. Callery discloses an insert that can be used with a jar **11** having flat top. Similarly, the lid **3** disclosed by Garwood also defines a flat top. Jarvis discloses a flexible container, and even if some portion of the container is considered to be arcuate, Jarvis does not disclose a tubular body of molded thermoplastic polymer with an arcuate top, two ends, and a flat bottom, as now set forth in Claim 1. Accordingly, Applicant submits that Claim 1 is patentable over each of the cited references, as are each of the dependent claims.

New Claims 20-27 provide further features and distinctions over the cited references. For example, Claim 14 recites that the atmosphere is selected from oxygen, carbon dioxide, nitrogen, carbon monoxide, and blends of the foregoing gases, as described in the application in paragraph [044]. Claims 21-25 regard the meat disposed in the container, as described, e.g., in paragraphs [038]-[042] and illustrated in the various drawings. Claim 26 recites that the tubular body

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portion defines outwardly sloping sides (*see* paragraph [030]), and Claim 27 recites that an interior of the tubular body portion is coated with an anti-fogging agent (*see* paragraph [036]).

\* \* \* \*

## CONCLUSIONS

In view of the remarks presented above, Applicant submits that all of the pending claims are allowable and the present application is in condition for allowance. As such, the issuance of a Notice of Allowance is therefore respectfully requested. In order to expedite the examination of the present application, the Examiner is encouraged to contact Applicant's undersigned attorney in order to resolve any remaining issues.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



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